IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

RPFC.No. 90 of 2002()

MC.359/2001 of THE FAMILY COURT, KOZHIKODE. DT.29.6.2002
.....

REVISION PETITIONER/RESPONDENT

KOTTAKKADAN MUHAMMED, S/O. KOYASSAN,
KARATH AHAMED, P.O.MANALAYA,PERINTHALMANNA,
MALAPPURAM DISTRICT.

BY ADV. SRI.JACOB ABRAHAM
SMT.KOCHUMOL KODUVATH

RESPONDENTS: PETITIONER
----

1. **T.K.FATHIMA, D/O. MUHAMMED,**
AGED 48 YEARS, MALAMKUNNU HOUSE, MYSORE MALA P.O.,
MUKKOM, KOZHIKODE.

2. **STATE OF KERALA, REPRESENTED BY PUBLIC**
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.C.P.MOHAMMED NIAS

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 13 /07 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP. 9585/2002 IN RP(FC) 90/2002

DISMISSED

13.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY /

P.S TO JUDGE

tss

K.R. UDAYABHANU, J.

R.P.(F.C).NO. 90 OF 2002

DATED THIS THE 13th July 2007

ORDER

The revision petitioner is the respondent in M.C.No.359/2001, the proceedings initiated under Section 125 Cr.P.C. by the petitioner/wife.

2. The case of the petitioner in the M.C. is that the parties got married about 25 years back and four children were born in the wedlock. By the time the petition was filed, the children became majors. It is the allegation that the petitioner used to be beaten up by the respondent and that she was driven out of the house. It is contended that the respondent is getting a sum of Rs.3,000/- per month from his job of rubber tapping and a sum of Rs.1000/- per month from his properties. The petitioner claimed maintenance at the rate of Rs.500/- per month.

3. The evidence adduced in the matter consisted of the testimony of PW1 and RW1 respectively. The case of RW1 is that he is only getting a sum of Rs.60/- per day form his avocation of rubber tapping and that he has no other income. He is aged 50 years. According to him, he is of poor health. The trial court rightly held that the case of ill-health stands not proved as no objective evidence has

been produced. The trial court fixed Rs.400/- per month as monthly maintenance. The contention of the counsel for the revision petitioner is that rubber tapping is a seasonal job and that he will not be having work through out the year.

I find that only evidence in the matter is the interested testimony of both sides. The revision petitioner/respondent has not established that a man of ill-health. Hence a sum of Rs.400/- per month cannot be said to be excessive. I find no reason to interfere in the findings of the court below in exercise of the revisional jurisdiction. The revision petition is dismissed.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

R.P.(F.C.)NO.90 OF 2002
ORDER

13-7-2007